THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26142 of 1995

Dated: 28.11.2006

Between:

Deva Srinivasa Reddy

… Petitioner

AND

Smt. Belli Komuramma & others.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26142 of 1995

ORDER:-

This writ petition is filed against the order of the 3rd respondent dated 07.07.1995 made in W.C. case No.14 of 1994 whereunder he awarded a sum of Rs.46,267=50 towards compensation for the death of Sri Belli Venkataiah, husband of respondent No.1 and father of respondent No.2, employed by the petitioner as a farm servant.

Learned counsel for the petitioner Sri A. Prabhakar Rao contended that on the respondents 1 and 2's own showing, the petitioner is an agriculturist and that the deceased was employed by him as a farm servant. His contention therefore is that the provisions of Workmen's Compensation Act 1923 (for short "the Act") have no application to the instant case. The learned counsel says that Section 2(n) defines 'workman' to mean any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purpose of the employer's trade or business) who is a railway servant, master etc., and any other person employed in any such capacity as specified in Schedule-II of the Act. He submits that none of the clauses in Schedule-II relates to the person employed as a farm servant.

Learned counsel for the respondents fairly admits that farm servant is not covered by Schedule-II of the Act.

Since the deceased does not fall within the definition of 'workman' under Section 2(n) read with Schedule-II of the Act, the very application filed before the 3rd respondent itself is misconceived and the 3rd respondent is denuded of its jurisdiction to decide any dispute and award any compensation. Therefore, the award of compensation by the 3rd respondent, in my view, is without jurisdiction and hence the same is liable to be set aside.

However, from the record it appears that there was a conditional interim order to the effect that the entire amount awarded shall be deposited by the petitioner and that the amount so deposited shall be allowed to be withdrawn by the respondents 1 and 2 without furnishing any security.

When asked, the learned counsel for the parties gave varied versions as to the factum of withdrawal of the amounts by respondents 1 and 2. Learned counsel for the petitioner says that according to his information, respondents 1 and 2 have withdrawn 50% of the amount deposited, while learned counsel for the respondents 1 and 2 says that his clients have withdrawn the entire amount.

Without going into this controversial issue, I deem it proper to direct that to the extent of the amount already withdrawn by respondents 1 and 2, the petitioner shall not recover the same from

them. If any part of the amount awarded under the impugned award is either not deposited by the petitioner or the same not having been withdrawn by the respondents 1 and 2 if deposited by the petitioner, either the petitioner is not liable to deposit any further amount or he is entitled to receive back the said amount as the case may be.

Subject to the above observations, the writ petition is allowed and the order of the 3rd respondent is set aside. No order as to costs.

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C.V. NAGARJUNA REDDY, J

Date: 28.11.2006
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